

**CR-1607-2015 (O&M)**

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CR-1607-2015 (O&M).  
Decided on: March 9, 2015.**

**Gulab Singh**

**..... Petitioner(s)**

**Versus**

**Phul Pati and another**

**..... Respondent(s)**

**\* \* \***

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI**

**PRESENT Mr.Arihant Jain, Advocate,  
for the petitioner.**

**M.M.S. BEDI, J (ORAL)**

Vide order dated 5.2.2015, the application filed by the plaintiff-respondent No.1 has been allowed permitting the plaintiff respondent No.1 to incorporate a plea and prayer that the plaintiff respondent No.1 is entitled to possession/joint possession of the property in dispute.

Counsel for the defendant-petitioner has submitted that the amendment has been allowed at a belated stage after commencement of proceedings.

I have heard the learned counsel for the defendant-petitioner and carefully gone through the facts and circumstances of the case. The plaintiff respondent No.1 had filed a suit for declaration challenging the judgment and decree dated 1.10.1980 passed in a civil suit on the ground that she had never given her consent for suit being decreed vide consent decree dated 1.10.1980.

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The defendant-petitioner along with respondent No.2 have challenged the maintainability of the suit for declaration claiming that they were owners in actual physical possession over the suit land pursuant to the family settlement which was six months prior to the filing of the suit in the year 1980 resulting in above said impugned decree. The trial Court taking into consideration the stage of the case and the circumstances as reflected from the pleadings has allowed the application by relying upon the judgment of Hon'ble Apex Court in **Sushil Kumar Jaini Vs. Manoj Kumar and another, 2009 (3) RCR (Civil) 899**, in which the written statement was permitted to be amended at a belated stage in rent proceedings taking into consideration the peculiar facts and circumstances of the case after relying upon the law pertaining to order 6 Rule 17 CPC.

On appreciation of the facts and circumstances of the case, it is apparent that the plaintiff respondent No.1 has merely been permitted to incorporate a plea that she is in possession/joint possession of the property in dispute, however, the main case challenging the consent decree suffered in the year 1980 remains the same. No prejudice seem to have been caused to the defendant-petitioner by permitting the plaintiff respondent No.1 to incorporate a prayer that the plaintiff-respondent No.1 will be entitled to declaration regarding ownership of the property besides a decree for declaration that she is in joint possession/possession. Any amendment which appears to be necessary for the purpose of determining the real

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question in controversy between the parties and to avoid multiplicity of litigation can be permitted in the interest of justice.

No ground is made out for interference in the impugned order.

The petition is dismissed.

**March 9, 2015.**  
**rka**

**(M.M.S. BEDI)**  
**JUDGE**